

Remarks

Claims 1-25 are pending in the application. Claims 1-25 have been rejected under 35 USC § 103(a) as being unpatentable over Nicol (US Patent No. 6,757,367) in view of Pereira (US Patent No. 5,781,726).

Nicol shows a network having a data relay function in which the relay is assumed to be unreliable and provides error correction by retransmitting packets to ensure reliability. See Nicol at col. 29, lines 23-31. Further, the rate synchronization in Nicol is performed by having each end negotiate their rates and then the rate negotiator selecting the lowest of the data rates, if the rates are different. During this time period, the gateways are disabled, that is, not on the network at all. See Nicol at col. 30, lines 39-63. Therefore, Nicol would be applied prior to the link allowing data transfer to commence.

Pereira discusses sending receiver not ready messages after the link between the two ends has already been established. As stated in Pereira, at col. 1, lines 19-28, "Once devices using this connection oriented protocol have physical connectivity and the link layer protocol session has been set up, the devices are said to be *ready for data transfer*. *When in the data transfer state*, the devices can transfer information data as opposed to control data between each other based on the rules of the protocol being used. When the devices have no information to transfer they typically continue to send polling traffic, such as the receiver ready RR and receiver not read protocol data units of the 802.2. [emphasis added]" Therefore, Pereira is not applied prior to the link between the gateways being established, but after they have been established and just have no data to send.

As amended, claims 1, 7, 14, 17, 21, 22, 23, 24 and 25 require that the gateways signal that they are not ready prior to establishment of the link for transferring data between the gateways. As stated in the office action, Nicol does not teach responding to polling with a not-ready message. Therefore, the combination of references does not teach signaling not

ready during segment negotiation at each end prior to the establishment of a link for transferring data between the gateways. It is therefore submitted that claims 1, 7, 14, 17, 21, 22, 23, 24 and 25 are patentably distinguishable over the prior art and allowance of these claims is requested.

Further, the combination of references is invalid. In order for the combination to be valid, there must be some motivation or suggestion of the desirability of combining the references. As Nicol is directed to negotiating data transfer rates prior to establishment of a link allowing transfer of data between gateways, and Pereira is directed to sending not ready messages after this link has been established, there is no motivation to combine the references. The combination of references is therefore invalid.

Claims 2-6 depend from claim 1 and inherently contain all of the limitations of the base claim. The prior art does not teach the limitations of the base claim, as discussed above, much less the further embodiments of the dependent claims. It is therefore submitted that claims 2-6 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 8-13 depend from claim 7 and inherently contain all of the limitations of the base claim. The prior art does not teach the limitations of the base claim, as discussed above, much less the further embodiments of the dependent claims. It is therefore submitted that claims 8-13 are patentably distinguishable over the prior art and allowance of these claims is requested.

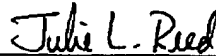
Claims 15-16 depend from claim 14 and inherently contain all of the limitations of the base claim. The prior art does not teach the limitations of the base claim, as discussed above, much less the further embodiments of the dependent claims. It is therefore submitted that claims 15-16 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 18-20 depend from claim 17 and inherently contain all of the limitations of the base claim. The prior art does not teach the limitations of the base claim, as discussed above, much less the further embodiments of the dependent claims. It is therefore submitted that claims 18-20 are patentably distinguishable over the prior art and allowance of these claims is requested.

The prior art made of record and not relied upon has been reviewed and is not considered pertinent to applicant's disclosure. No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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